

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1120 be amended to read as follows:

- 1           Page 9, between lines 25 and 26, begin a new paragraph and insert:
- 2           "SECTION 5. IC 4-33-2-11.6 IS ADDED TO THE INDIANA
- 3           CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4           [EFFECTIVE JULY 1, 2005]: **Sec. 11.6. "Law enforcement agency"**
- 5           **means any of the following:**
- 6               **(1) The gaming agents of the Indiana gaming commission.**
- 7               **(2) The state police department.**
- 8               **(3) The conservation officers of the department of natural**
- 9               **resources.**
- 10              **(4) The state excise police of the alcohol and tobacco**
- 11              **commission.**
- 12           SECTION 6. IC 4-33-3-2 IS AMENDED TO READ AS
- 13           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The
- 14           commission consists of seven (7) members appointed by the governor.
- 15           (b) Each member of the commission must:
- 16               (1) be a resident of Indiana; and
- 17               (2) have a reasonable knowledge of the practice, procedures, and
- 18               principles of gambling operations.
- 19           (c) At least one (1) member of the commission must be
- 20           experienced in law enforcement and criminal investigation.
- 21           (d) At least one (1) member of the commission must be a certified
- 22           public accountant experienced in accounting and auditing.
- 23           (e) At least one (1) member of the commission must be an attorney
- 24           admitted to the practice of law in Indiana.
- 25           (f) ~~Three (3) members~~ **One (1) member** of the commission must
- 26           be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(1).
- 27           (g) ~~Three (3) members~~ **One (1) member** of the commission must
- 28           be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(2).
- 29           (h) ~~One (1) member of the commission must be a resident of a~~
- 30           ~~county not described in IC 4-33-1-1(1) or IC 4-33-1-1(2).~~
- 31           (i) **(h)** Not more than four (4) members may be affiliated with the
- 32           same political party.

1 (j) The governor shall appoint each of the initial members of the  
2 commission not later than September 1, 1993.  
3 SECTION 7. IC 4-33-4-3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission  
5 shall do the following:

- 6 (1) Adopt rules that the commission determines necessary to  
7 protect or enhance the following:
  - 8 (A) The credibility and integrity of gambling operations  
9 authorized by this article.
  - 10 (B) The regulatory process provided in this article.
- 11 (2) Conduct all hearings concerning civil violations of this  
12 article. (3) Provide for the establishment and collection of license  
13 fees and taxes imposed under this article.
- 14 (4) Deposit the license fees and taxes in the state gaming fund  
15 established by IC 4-33-13.
- 16 (5) Levy and collect penalties for noncriminal violations of this  
17 article.
- 18 (6) Deposit the penalties in the state gaming fund established by  
19 IC 4-33-13.
- 20 (7) Be present through the commission's ~~inspectors and gaming~~  
21 agents during the time gambling operations are conducted on a  
22 riverboat to do the following:
  - 23 (A) Certify the revenue received by a riverboat.
  - 24 (B) Receive complaints from the public.
  - 25 (C) Conduct other investigations into the conduct of the  
26 gambling games and the maintenance of the equipment that  
27 the commission considers necessary and proper.
- 28 (8) Adopt emergency rules under IC 4-22-2-37.1 if the  
29 commission determines that:
  - 30 (A) the need for a rule is so immediate and substantial that  
31 rulemaking procedures under IC 4-22-2-13 through  
32 IC 4-22-2-36 are inadequate to address the need; and
  - 33 (B) an emergency rule is likely to address the need.
- 34 (9) Adopt rules to establish and implement a voluntary exclusion  
35 program that meets the requirements of subsection (c).
- 36 (b) The commission shall begin rulemaking procedures under  
37 IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted  
38 under subsection (a)(8) not later than thirty (30) days after the adoption  
39 of the emergency rule under subsection (a)(8).
- 40 (c) Rules adopted under subsection (a)(9) must provide the  
41 following:
  - 42 (1) Except as provided by rule of the commission, a person who  
43 participates in the voluntary exclusion program agrees to refrain  
44 from entering a riverboat or other facility under the jurisdiction  
45 of the commission.
  - 46 (2) That the name of a person participating in the program will  
47 be included on a list of persons excluded from all facilities under  
48 the jurisdiction of the commission.
  - 49 (3) Except as provided by rule of the commission, a person who  
50 participates in the voluntary exclusion program may not petition  
51 the commission for readmittance to a facility under the  
52 jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 8. IC 4-33-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The commission ~~may~~ **shall** employ ~~or contract for inspectors and gaming agents required under section 3(7) to perform the duties imposed by~~ of this chapter. The licensed owners and operating agents shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

- (1) the training expenses incurred to train gaming agents;**
- (2) the salaries and other expenses of staff required to support the gaming agents; and**
- (3) the salaries and other expenses of the ~~inspectors and gaming~~ agents required to be present during the time gambling operations are conducted on a riverboat.**

SECTION 9. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. **(a)** The state police department ~~shall~~ **may** assist the commission in conducting background investigations of applicants. The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

**(b) The commission through its gaming agents shall conduct background investigations of applicants. Costs incurred conducting the investigations must be paid from fees collected from applicants.**

SECTION 10. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

#### **Chapter 4.5. Gaming Commission Gaming Agents**

**Sec. 1. (a) A gaming agent is vested with full police powers and duties to enforce this article.**

**(b) A gaming agent may issue a summons for an infraction or**

a misdemeanor violation if the defendant promises to appear by signing the summons. A defendant who signs a summons issued under this subsection but fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon the defendant's failure to appear, the court shall issue a warrant for the arrest of the defendant.

Sec. 2. Each gaming agent shall execute a surety bond in the amount of one thousand dollars (\$1,000), with surety approved by the commission, and an oath of office, both of which must be filed with the executive director.

Sec. 3. (a) An injury to, an injury to the health of, or the death of a gaming agent is compensable under the appropriate provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to the health of, or death arises out of and in the course of the performance of the agent's duties as a gaming agent.

(b) For purposes of subsection (a) and IC 22-3-2 through IC 22-3-7, a gaming agent is conclusively presumed to have accepted the compensation provisions included in the parts of the Indiana Code referred to in this subsection.

Sec. 4. An eligible gaming agent who retires with at least twenty (20) years of service as a gaming agent:

(1) may retain the agent's service weapon;

(2) may receive, in recognition of the agent's service to the commission and to the public, a badge that indicates that the agent is retired; and

(3) shall be issued by the commission an identification card stating the agent's name and rank, signifying that the agent is retired, and noting the agent's authority to retain the service weapon.

Sec. 5. The commission shall create a matrix for salary ranges for gaming agents, which must be reviewed and approved by the budget agency before implementation."

Page 9, line 33 delete "issued by the" and insert "**with**".

Page 9, delete line 34.

Page 9, line 35, delete "adopted" and insert "**determined**".

Page 34, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 15. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools

administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

*(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.*

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), ~~and (l)~~, **and (n)**, a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter*, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) **This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission.** Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis.

The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection

and subsection (j), "police chief" refers to:

- (1) the police chief of any city; and
- (2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

**(n) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:**

- (1) the agent successfully completes the pre-basic course established in subsection (f); and**
- (2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.**

SECTION 16. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

- (1) The state excise police, **gaming agent**, and conservation enforcement officers' retirement plan established under IC 5-10-5.5.
- (2) The "trust fund" and "pension trust" of the state police department established under IC 10-12-2.
- (3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
- (4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.
- (5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
- (6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.



- 1 (7) The Indiana judges' retirement fund established under
- 2 IC 33-38-6.
- 3 (8) Each retirement program adopted by a board of a local health
- 4 department as authorized under IC 16-1-4-25 (before its repeal)
- 5 or IC 16-20-1-3.
- 6 (9) Each retirement benefit program of a joint city-county health
- 7 department under IC 16-1-7-16 (before its repeal).
- 8 (10) Each pension and retirement plan adopted by the board of
- 9 trustees or governing body of a county hospital as authorized
- 10 under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- 11 (11) Each pension or retirement plan and program for hospital
- 12 personnel in certain city hospitals as authorized under
- 13 IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- 14 (12) Each retirement program of the health and hospital
- 15 corporation of a county as authorized under IC 16-12-21-27
- 16 (before its repeal) or IC 16-22-8-34.
- 17 (13) Each pension plan provided by a city, town, or county
- 18 housing authority as authorized under IC 36-7.
- 19 (14) Each pension and retirement program adopted by a public
- 20 transportation corporation as authorized under IC 36-9.
- 21 (15) Each system of pensions and retirement benefits of a
- 22 regional transportation authority as authorized or required by
- 23 IC 36-9.
- 24 (16) Each employee pension plan adopted by the board of an
- 25 airport authority under IC 8-22-3.
- 26 (17) The pension benefit paid for the national guard by the state
- 27 as established under IC 10-16-7.
- 28 (18) The pension fund allowed employees of the Wabash Valley
- 29 interstate commission as authorized under IC 13-5-1-3.
- 30 (19) Each system of pensions and retirement provided by a unit
- 31 under IC 36-1-3.
- 32 SECTION 17. IC 5-10-1.7-1 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The retirement
- 34 plans covered by this chapter are:
- 35 (1) The state excise police, **gaming agent**, and conservation
- 36 officers' retirement plan, established under IC 5-10-5.5.
- 37 (2) The public employees' retirement fund, established under
- 38 IC 5-10.3-2.
- 39 (3) The trust fund and pension trust of the department of state
- 40 police, established under IC 10-12-2.
- 41 (4) The Indiana state teachers' retirement fund, established under
- 42 IC 21-6.1-2.
- 43 (5) The Indiana judges' retirement fund, established under
- 44 IC 33-38-6.
- 45 (6) The police officers' and firefighters' pension and disability
- 46 fund established under IC 36-8-8-4.
- 47 (b) As used in this chapter:
- 48 "Board" means the board of trustees of a retirement plan covered
- 49 by this chapter.
- 50 SECTION 18. IC 5-10-5.5-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, ~~or~~ any Indiana state conservation enforcement officer, **or any gaming agent.**

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 19. IC 5-10-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. There is hereby created a state excise police, **gaming agent**, and conservation enforcement officers' retirement plan to establish a means of providing special retirement, disability, and survivor benefits to employees of the department, **the Indiana gaming commission**, and the commission who are engaged exclusively in the performance of law enforcement duties.

SECTION 20. IC 5-10-5.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, **gaming agent**, and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other

1 provision of this chapter:

2 (1) The board shall distribute the corpus and income of the  
3 retirement plan to participants and their beneficiaries in  
4 accordance with this chapter.

5 (2) No part of the corpus or income of the retirement plan may be  
6 used or diverted to any purpose other than the exclusive benefit  
7 of the participants and their beneficiaries.

8 (3) Forfeitures arising from severance of employment, death, or  
9 for any other reason may not be applied to increase the benefits  
10 any participant would otherwise receive under this chapter.

11 (4) If the retirement plan is terminated, or if all contributions to  
12 the retirement plan are completely discontinued, the rights of  
13 each affected participant to the benefits accrued at the date of the  
14 termination or discontinuance, to the extent then funded, are  
15 nonforfeitable.

16 (5) All benefits paid from the retirement plan shall be distributed  
17 in accordance with the requirements of Section 401(a)(9) of the  
18 Internal Revenue Code and the regulations under that section. In  
19 order to meet those requirements, the retirement plan is subject  
20 to the following provisions:

21 (A) The life expectancy of a participant, the participant's  
22 spouse, or the participant's beneficiary shall not be  
23 recalculated after the initial determination, for purposes of  
24 determining benefits.

25 (B) If a participant dies before the distribution of the  
26 participant's benefits has begun, distributions to  
27 beneficiaries must begin no later than December 31 of the  
28 calendar year immediately following the calendar year in  
29 which the participant died.

30 (C) The amount of an annuity paid to a participant's  
31 beneficiary may not exceed the maximum determined under  
32 the incidental death benefit requirement of the Internal  
33 Revenue Code.

34 (6) The board may not:

35 (A) determine eligibility for benefits;

36 (B) compute rates of contribution; or

37 (C) compute benefits of participants or beneficiaries;

38 in a manner that discriminates in favor of participants who are  
39 considered officers, supervisors, or highly compensated, as  
40 prohibited under Section 401(a)(4) of the Internal Revenue Code.

41 (7) Benefits paid under this chapter may not exceed the  
42 maximum benefit specified by Section 415 of the Internal  
43 Revenue Code.

44 (8) The salary taken into account under this chapter may not  
45 exceed the applicable amount under Section 401(a)(17) of the  
46 Internal Revenue Code.

47 (9) The board may not engage in a transaction prohibited by  
48 Section 503(b) of the Internal Revenue Code.

49 SECTION 21. IC 5-10-5.5-3.5 IS AMENDED TO READ AS  
50 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The state excise

1 police, **gaming agent**, and conservation enforcement officers'  
 2 retirement plan shall be administered in a manner that is consistent with  
 3 the Americans with Disabilities Act, to the extent required by the Act.

4 SECTION 22. IC 5-10-8-6 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The state police  
 6 department, conservation officers of the department of natural  
 7 resources, **gaming agents of the Indiana gaming commission**, and the  
 8 state excise police may establish common and unified plans of  
 9 self-insurance for their employees, including retired employees, as  
 10 separate entities of state government. These plans may be administered  
 11 by a private agency, business firm, limited liability company, or  
 12 corporation.

13 (b) The state agencies listed in subsection (a) may not pay as the  
 14 employer portion of benefits for any employee or retiree an amount  
 15 greater than that paid for other state employees for group insurance.

16 SECTION 23. IC 5-10-10-4 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this  
 18 chapter, "public safety officer" means any of the following:

- 19 (1) A state police officer.
- 20 (2) A county sheriff.
- 21 (3) A county police officer.
- 22 (4) A correctional officer.
- 23 (5) An excise police officer.
- 24 (6) A county police reserve officer.
- 25 (7) A city police reserve officer.
- 26 (8) A conservation enforcement officer.
- 27 (9) A town marshal.
- 28 (10) A deputy town marshal.
- 29 (11) A probation officer.
- 30 (12) A state university police officer appointed under
- 31 IC 20-12-3.5.
- 32 (13) An emergency medical services provider (as defined in
- 33 IC 16-41-10-1) who is:
- 34 (A) employed by a political subdivision (as defined in
- 35 IC 36-1-2-13); and
- 36 (B) not eligible for a special death benefit under
- 37 IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or
- 38 IC 36-8-8-20.
- 39 (14) A firefighter who is employed by the fire department of a
- 40 state university.

41 **(15) A gaming agent of the Indiana gaming commission.**

42 SECTION 24. IC 5-14-3-2 IS AMENDED TO READ AS  
 43 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this  
 44 chapter:

45 "Copy" includes transcribing by handwriting, photocopying,  
 46 xerography, duplicating machine, duplicating electronically stored data  
 47 onto a disk, tape, drum, or any other medium of electronic data storage,  
 48 and reproducing by any other means.

49 "Direct cost" means one hundred five percent (105%) of the sum  
 50 of the cost of:

1 (1) the initial development of a program, if any;  
 2 (2) the labor required to retrieve electronically stored data; and  
 3 (3) any medium used for electronic output;  
 4 for providing a duplicate of electronically stored data onto a disk, tape,  
 5 drum, or other medium of electronic data retrieval under section 8(g) of  
 6 this chapter, or for reprogramming a computer system under section  
 7 6(c) of this chapter.

8 "Electronic map" means copyrighted data provided by a public  
 9 agency from an electronic geographic information system.

10 "Enhanced access" means the inspection of a public record by a  
 11 person other than a governmental entity and that:

- 12 (1) is by means of an electronic device other than an electronic  
 13 device provided by a public agency in the office of the public  
 14 agency; or  
 15 (2) requires the compilation or creation of a list or report that  
 16 does not result in the permanent electronic storage of the  
 17 information.

18 "Facsimile machine" means a machine that electronically transmits  
 19 exact images through connection with a telephone network.

20 "Inspect" includes the right to do the following:

- 21 (1) Manually transcribe and make notes, abstracts, or  
 22 memoranda.  
 23 (2) In the case of tape recordings or other aural public records, to  
 24 listen and manually transcribe or duplicate, or make notes,  
 25 abstracts, or other memoranda from them.  
 26 (3) In the case of public records available:  
 27 (A) by enhanced access under section 3.5 of this chapter; or  
 28 (B) to a governmental entity under section 3(c)(2) of this  
 29 chapter;

30 to examine and copy the public records by use of an electronic  
 31 device.

- 32 (4) In the case of electronically stored data, to manually  
 33 transcribe and make notes, abstracts, or memoranda or to  
 34 duplicate the data onto a disk, tape, drum, or any other medium  
 35 of electronic storage.

36 "Investigatory record" means information compiled in the course  
 37 of the investigation of a crime.

38 "Patient" has the meaning set out in IC 16-18-2-272(d).

39 "Person" means an individual, a corporation, a limited liability  
 40 company, a partnership, an unincorporated association, or a  
 41 governmental entity.

42 "Provider" has the meaning set out in IC 16-18-2-295(a) and  
 43 includes employees of the state department of health or local boards of  
 44 health who create patient records at the request of another provider or  
 45 who are social workers and create records concerning the family  
 46 background of children who may need assistance.

47 "Public agency" means the following:

- 48 (1) Any board, commission, department, division, bureau,  
 49 committee, agency, office, instrumentality, or authority, by  
 50 whatever name designated, exercising any part of the executive,

administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, **gaming agents of the Indiana gaming commission**, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper

1 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
2 and one-half (8 1/2) inches by fourteen (14) inches.

3 "Trade secret" has the meaning set forth in IC 24-2-3-2.

4 "Work product of an attorney" means information compiled by an  
5 attorney in reasonable anticipation of litigation and includes the  
6 attorney's:

7 (1) notes and statements taken during interviews of prospective  
8 witnesses; and

9 (2) legal research or records, correspondence, reports, or  
10 memoranda to the extent that each contains the attorney's  
11 opinions, theories, or conclusions.

12 This definition does not restrict the application of any exception under  
13 section 4 of this chapter."

14 Page 229, between lines 38 and 39, begin a new paragraph and  
15 insert:

16 "SECTION 113. IC 35-47-4.5-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this  
18 chapter, "public safety officer" means:

19 (1) a state police officer;

20 (2) a county sheriff;

21 (3) a county police officer;

22 (4) a correctional officer;

23 (5) an excise police officer;

24 (6) a county police reserve officer;

25 (7) a city police officer;

26 (8) a city police reserve officer;

27 (9) a conservation enforcement officer;

28 **(10) a gaming agent;**

29 ~~(10)~~ **(11)** a town marshal;

30 ~~(11)~~ **(12)** a deputy town marshal;

31 ~~(12)~~ **(13)** a state university police officer appointed under  
32 IC 20-12-3.5;

33 ~~(13)~~ **(14)** a probation officer;

34 ~~(14)~~ **(15)** a firefighter (as defined in IC 9-18-34-1);

35 ~~(15)~~ **(16)** an emergency medical technician; or

36 ~~(16)~~ **(17)** a paramedic."

37 Page 268, between lines 9 and 10, begin a new paragraph and  
38 insert:

39 "SECTION 160. [EFFECTIVE UPON PASSAGE] **(a)**  
40 **Notwithstanding IC 4-33-3-2, as amended by this act, a member of**  
41 **the Indiana gaming commission who was appointed before the**  
42 **effective date of this act may continue to serve until the member's**  
43 **term expires.**

44 **(b) This SECTION expires July 1, 2008."**

45 Renumber all SECTIONS consecutively.

(Reference is to EHB 1120 as printed April 4, 2005.)

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Senator CLARK